

**MINUTES**  
**OF**  
**THE UTAH RADIATION CONTROL BOARD**

**April 6, 2007**

**Department of Environmental Quality, DEQ Building #2**

**Conference Room 101**

**168 N 1950 W**

**Salt Lake City, Utah 84114-4850**

**BOARD MEMBERS PRESENT**

Kent J. Bradford, P.G., Chair  
Stephen T. Nelson, Ph.D., Vice Chair  
Dianne R. Nielson, Ph.D., Director of DEQ  
Dane L. Finerfrock, Executive Secretary  
Frank D. DeRosso, MSPH, C.I.H.  
Christian K. Gardner  
Elizabeth Goryunova, M.S.  
Joseph K. Miner, M.D., MSPH  
Gregory G. Oman, D.D.S., B.S.  
John W. Thomson, M.D.

**PUBLIC**

Charles Judd, Cedar Mountain  
Environmental, Inc.  
Judy Fahys, Salt Lake Tribune  
Tim Barney, EnergySolutions LLC  
Mark Ledoux, EnergySolutions LLC  
Tye Rogers, EnergySolutions LLC  
Dan Shrum, EnergySolutions LLC

**BOARD MEMBERS ATTENDING BY  
CONFERENCE CALL**

Joette E. Langianese, Commissioner  
Robert S. Pattison, B.S.

**BOARD MEMBERS ABSENT/EXCUSED**

Patrick D. Cone  
Peter A. Jenkins, M.S., CHP

**DRC STAFF/OTHER DEQ MEMBERS  
PRESENT**

Mario A. Bettolo, DRC Staff  
Bill Craig, DRC Staff  
Phillip R. Goble, DRC Staff  
Craig W. Jones, DRC Staff  
Yolanda D. V. Necochea, DRC Staff  
Loren D. Morton, DRC Staff  
Donna Spangler, DEQ/Office of Policy and  
Planning

## **GREETINGS/MEETING CALLED TO ORDER**

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ), Conference Room 101, 168 North 1950 West (DEQ Bldg. #2, Salt Lake City, Utah. Kent J. Bradford, P.G., Chair, called the meeting to order at 2:00 p.m. He welcomed the Board Members and the public. Chairman Bradford indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

## **I. APPROVAL OF MINUTES (Board Action Item)**

### **a. Approval of Transcript from the March 2, 2007 Board Meeting**

Kent Bradford, Chair, asked the Board if there were any corrections to the minutes from the transcript of the March 2, 2007 Board meeting. Gregory Oman proposed the following corrections to the transcript of March 2, 2007:

1. Page 44, Line 16: "The third concern has to do with the annual radiation protection and as low as reasonably . . ." **Change to read: "ALARA."**

Stephen Nelson, Vice Chair, proposed the following corrections to the transcript of March 2, 2007:

2. Page 39, Line 19: "I've had personal experience with Dr. Kip Solomon in the Grand County with the **Miller** tailings project . . ." **Change to read: . . "Mill."**

**MOTION MADE BY ELIZABETH GORYUNOVA TO APPROVE THE TRANSCRIPT OF THE MINUTES OF MARCH 2, 2007 WITH THE REQUESTED CORRECTIONS, SECONDED BY CHRISTIAN GARDNER.**

**MOTION CARRIED AND PASSED UNANIMOUSLY**

## **II. RULES (Board action item)**

### **a. Request for Approval as a Mammography Imaging Medical Physicist by James M. Botti, M.S., Under R313-28-140(l)**

Craig Jones, DRC X-ray Section Manager, said James M. Botti asked for approval to be a Certified Mammography Imaging Medical Physicist (MIMP).

Mr. Jones said that in accordance with Section 19-3-104(4)(c)(ii) of the Utah Code Annotated, the Board may make rules to establish the certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities. He said that Mr. Botti had completed an

application to be certified as a MIMP. Mr. Jones also said that a review of the application showed that Mr. Botti satisfied the requirements of R313-28-140(1) for certification as a MIMP.

**RECOMMENDATION:**

Mr. Jones said the recommendation of the Executive Secretary was for the Board to approve the certification of Mr. James M. Botti as a Mammography Imaging Medical Physicist. The effective date of the approval should be from April 6, 2007 to May 31, 2008.

**Questions by DRC Board Members:**

Joseph Miner, M.D., MSPH, asked about the period of approval for a MIMP and why Mr. Botti's recertification would be longer than one year.

Craig Jones, DRC Section Manager, said that an approval through May 31, 2008 would put Mr. Botti on the same cycle as the rest of the MIMPs. Craig also said that all the other MIMPs that seek recertification will be discussed at the June 2007 Board meeting.

Board members expressed concern that if the recertification ended on May 31, 2007, then there would be a delay for MIMP recertification, because the Board would not meet again until the beginning of June, 2007. Dianne Nielson, DEQ Executive Director, said that perhaps the MIMP recertification applications should be approved prior to their expiration date.

Craig Jones, DRC Section Manager, responded that he would ask the "MIMP recertification-applicants" to return their applications in time for discussion and approval at the May, 2007 Board Meeting; consequently, the MIMPs would not be working with expired certificates, which was a concern for most of the Board Members.

Dianne Nielson, DEQ Executive Director, suggested that Mr. Botti be certified through June 1, 2008. She said that rather than renew the MIMPs' certification on the date their recertification expires, it would be better for the Board to consider their recertification the month before it would expire. The new authorized term would remain June 1, 2007 to June 1, 2008. This would cause the renewal dates for all the MIMPs to be the same.

**MOTION MADE BY CHRISTIAN GARDNER TO CERTIFY  
MR. JAMES BOTTI AS A MAMMOGRAPHY IMAGING  
MEDICAL PHYSICIST (MIMP) EFFECTIVE APRIL 6,  
2007 THROUGH JUNE 1, 2008, SECONDED BY  
GREGORY OMAN.**

**MOTION CARRIED AND PASSED UNANIMOUSLY**

### **III. RADIOACTIVE MATERIALS LICENSING/INSPECTION**

No Items

### **IV. X-RAY REGISTRATION/INSPECTION**

No Items

### **V. RADIOACTIVE WASTE DISPOSAL**

#### **a. Update of Recent Issues at EnergySolutions**

Tye Rogers and Tim Barney, both from EnergySolutions, updated the Board on recent issues at the EnergySolutions' Facility. Tye Rogers began by introducing himself. He said he was in charge of Regulatory Affairs. Tye also introduced Tim Barney. He said Tim Barney was responsible for Government Relations. Tye Rogers updated the Board on the following changes occurring at EnergySolutions:

- **Rational Behind Senate Bill 155**
  - Subsequent Agreement with the Governor as a result of Senate Bill 155
  - The recent withdrawal of the Class A Combined License Amendment
  - Withdrawal of Section 29 License
  - EnergySolutions, the Legislature and the Perpetual Care Fund
  - EnergySolutions' view on going forward with the Perpetual Care Fund

Tim Barney, EnergySolutions Government-Relations, presented the following topics to the Board:

- **Senate Bill 155 – An Important Bill for EnergySolutions**
  - EnergySolutions was alerted by the Attorney General's Office (AG) of a Grandfather Clause. In 2004, the Grandfather Clause was inadvertently removed in a piece of Legislation
    - The AG's Office called and recommended that EnergySolutions have the "Grandfather Clause," reinstated
    - EnergySolutions decided to introduce Senate Bill 155 to reinstate the Grandfather Clause and to clarify what EnergySolutions had understood vs how the Division had interpreted the law for 18 years
    - Senate Bill 155 clarified that it would not be necessary for the Legislature and the Governor to

“weigh in” on decisions related to the 50% increase in cost and the 50% increase in capacity. The Legislature and Governor’s “weigh in” were only necessary, if EnergySolutions went to a different geographic section.

- The Legislature and Governor would still retain the ability to “weigh in” on any decisions to expand beyond EnergySolutions’ geographic site
- Senate Bill 155 does not allow EnergySolutions additional freedoms or flexibility that it did not have already. All Senate Bill 155 does is clarify the language.
- The Legislation did not create any unintended regulatory consequences. It actually provided some very valuable input into the language
- Senate Bill 155 simply clarifies what the Division had interpreted for the last 18 years, and it reinstates the “Grandfather Clause”

- **EnergySolutions Negotiates a Solution With the Governor**

- The solution will enable EnergySolutions to continue to operate their business and still try to satisfy some of the Governor’s concerns
- It was evident to EnergySolutions that the Governor would neither sign the Bill nor veto it
- The Governor announced that he was going to the Northwest Compact to put restrictions and limitations on the amount of waste that EnergySolutions could receive at the Clive Facility
- EnergySolutions worked with the Governor and Representatives from the Division of Radiation Control (DRC) and the Department of Environmental Quality (DEQ). EnergySolutions negotiated an agreement that would accomplish the Governor’s objectives on the capacity of waste at EnergySolutions, and it would also allow EnergySolutions to continue to operate without going into a long, protracted legal-battle.
- As part of the “agreement,” EnergySolutions withdrew the “Combined Cell Amendment.” In addition, EnergySolutions agreed not to apply for additional capacity, beyond the capacity in Section 32 (for which EnergySolutions has already obtained approval)
  - EnergySolutions did not feel that it was consistent with the spirit of their agreement with the Governor to go forward with the Section 29 License Amendment; consequently, the License

Amendment for Section 29 has been withdrawn

- **EnergySolutions and the Perpetual Care Agreement**
  - EnergySolutions met with representatives from DRC, DEQ and the State Treasurer's Office to "put together" an annuity
    - EnergySolutions will purchase an annuity that will be paid in 100 years, in an effort to meet some of the concerns for the perpetual care of the Facility
  - The 100-Year Annuity will not offer better protection than what the State had with the Perpetual Care Fund (\$400,000)
    - EnergySolutions has committed to the DRC to come up with a solution that is satisfactory to the Division (DRC)
    - Once an agreement with the Division (DRC) has been reached, EnergySolutions will return to the Board with a proposal on perpetual-care for the Facility that we hope will be acceptable
    - EnergySolutions will work in an expeditious manner
    - Within a few months, EnergySolutions should be able to make a recommendation to the Board that will satisfy the Board's, DEQ's and DRC's concerns with funding for perpetual-care

**Questions by the Board:**

Frank DeRosso asked about the effect the Northwest Compact could have regarding the amount of waste received at EnergySolutions?

Tim Barney, EnergySolutions, responded. He said that his Company disputed the Northwest Compact's having any authority over the operations at EnergySolutions. He said they believed EnergySolutions did not qualify as a "Regional Disposal Facility" in the Low-Level Waste Policy Act. Mr. Barney said when he spoke about a long, protracted legal-battle this would be one of the core issues that would be disputed. Mr. Barney said the State of Utah believed the Northwest Compact did have authority to regulate EnergySolutions. Hopefully, the litigation of this issue has been avoided by making an agreement with the Governor.

Stephen Nelson, Vice Chair, asked if the "Grandfather Clause," that was reinstated by Senate Bill 155, anticipated EnergySolutions' doubling the capacity of the disposal cells.

Tye Rogers, EnergySolutions, said that his Company had been in operation for the past eighteen years. He said that EnergySolutions was initially licensed for the "potential capacity of Section 32." The only

restraints within Section 32 were engineering and scientific restraints. EnergySolutions' interpretation of the original licensing and of the intent of the Legislature is that as long as EnergySolutions stays in Section 32, higher waste and more waste could be accommodated through science and engineering. In addition, Mr. Rogers said, it should be up to the Division (DRC) to approve additional waste not the Northwest Compact.

Stephen Nelson, Vice Chair, said assuming more radioactive waste is stacked higher in Section 32 and survives a review by the Division (DRC), and that it would also be determined to be safe. Nevertheless, he said it was his position that doubling the volume of the disposal cell was a matter of public policy and of public interest. He said the Legislature and the Governor should not have passed legislation to relinquish this review process.

Kent Bradford, Chair, made his final remarks. He said he looked forward to having EnergySolutions come back to the Board with a proposal for perpetual care.

Tim Barney, EnergySolutions, responded that he was confident that EnergySolutions would be able to reach an agreement about perpetual care which would make everyone feel comfortable.

**VI. URANIUM MILL TAILINGS UPDATE**

No Items

**VII. OTHER DIVISION ISSUES**

No Items

**VIII. PUBLIC COMMENT**

The Public Speaker, Mr. Charles Judd, addressed the Board on Item V.a., the presentation by EnergySolutions. Charles Judd, President of Cedar Mountain Environmental Inc., distributed a document to the Board Members with his written concerns. Mr. Judd addressed his concerns to the Board from this document. The following is a summary of the document:

**Ongoing Concerns About EnergySolutions' Operation at Clive, Utah**

**Cedar Mt. had Capacity Concerns Last Year. They are as Follows:**

- Cedar Mt. was Told "the Issues were Not Ripe" and Asked to Wait Until an Amendment was Requested by EnergySolutions
- Concerns were Submitted During the Public Comment Period of

- the “Super Cell” Amendment
- The EnergySolutions’ Amendment Has Been Withdrawn and Cedar Mt.’s Questions Have Not Been Answered

**Cedar Mt. Had Given “LARW Surety Agreement Concerns” to DRC to Address**

- DRC Replied That They Would Try to Respond to These Concerns During Their Review of the “Super Cell” Amendment
- The EnergySolutions’ Amendment Has Been Withdrawn and Cedar Mt.’s Questions Have Not Been Answered

**Cedar Mt Contacted Steve Creamer of EnergySolutions in Writing to Discuss These Concerns**

- Steve Creamer Denied Their Request to Meet With Him
- Mr. Creamer Stated That a Meeting With Cedar Mt. Would Not Be Beneficial to EnergySolutions; Therefore, He Did Not Want to Talk

**Cedar Mt Feels the State of Utah Will Ultimately “End Up with the Ownership of the Clive Site”**

- Therefore, the DRC Board should direct Cedar Mt. as to how to get answers to the following concerns:
  - Concern #1 - Site Closure Is Coming Fast
  - Concern #2 – Insufficient Closure Funds
  - Concern #3 – Settlement at the Site is Causing Failure in 10-8 Radon Barrier
  - Concern #4 – Will History Repeat Itself?

At the conclusion of Mr. Charles Judd’s presentation he asked that the Board respond to his written concerns. Mr. Judd asked the Board if they had any questions. The Board Members had the following discussion.

**Discussion by the Board Members:**

Kent Bradford, Chair, told Mr. Judd that the Board would be able to respond to most of Cedar Mt.’s questions when the Board addressed the perpetual care issue at a later date.

Dianne Nielson, DEQ Executive Director, asked Dane Finerfrock, Executive Secretary, to arrange to meet with Fred Nelson of the Attorney General’s Office and to respond to Cedar Mountain in a timely manner. Dianne said that if Cedar Mountain’s questions could not be answered immediately that Mr. Judd and the Division (DRC) could arrange a “set schedule.” She said DEQ and the Division (DRC) wanted to provide the information that would be helpful to him.

**a. Introduction of New DRC Staff**



Dane Finerfrock, DRC Division Director, introduced two, newly hired, DRC, Staff Members to the Board. Dane asked them to introduce themselves to the public and to the Board. Mr. Phil R. Goble came forward first followed by Mario A. Bettolo. The following is a summary of their comments to the Board:

**Phillip R. Goble, Geologist, DRC Staff:**

Loren Morton, Geotechnical Services Section Manager, will be Phillip R. Goble's Supervisor

- Hired as a Hydrogeologist, for DRC
- Born and raised in Spanish Fork, UT
- Graduated from Utah Valley State College with a Bachelor of Science Degree in Earth Science--he is one of the first to graduate in this fairly new program at the College
- Worked 18-months for ERM (Environmental Resources Management) as an Environmental Consultant/Geologist
- Performed work at ERM conducting compliance audits, construction oversight, Phase I, and soil and groundwater sampling
- Has completed work at the Chevron and Holly Oil Refineries, Midvale Slag Superfund Site and Geneva Steel
- Phil has been at DRC for 3-weeks and is currently going to EnergySolutions a few times a week

**Mario A. Bettolo, Health Physicist, DRC Staff:**

Craig W. Jones, Radioactive Materials Section Manager, will be Mario A. Bettolo's Supervisor

- Mario was hired as an Environmental Scientist and is working as a Health Physicist in the Radioactive Materials Section
- Mario has a Masters Degree in Physics from the U of U
- He worked 3 years for the Radiological Health Department at the U of U with Karen S. Langley, former Chairwoman of the Utah Radiation Control Board
- He worked as an analyst and performed internal audits at the U of U
- He joined the Division (DRC) in January, 2007

**IX. OTHER ISSUES**

**Next Scheduled Board Meeting: May 4, 2007, DEQ Bldg #2, Conference Room 101, 168 North 1950 West, SLC, UT 84114, 2:00 – 4:00 P.M.**

**MOTION WAS MADE BY GREGORY OMAN TO ADJOURN THE BOARD MEETING, SECONDED BY FRANK DeROSSO.  
MOTION CARRIED AND PASSED UNANIMOUSLY**

**THE BOARD MEETING ADJOURNED AT 2:53 P.M.**